AMENDED APPLICATION

[As per order dt. 31.08.2023]

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
(WESTERN ZONE BENCH), PUNE

EXECUTION APPLICATION NO. 10 OF 2023 [WZ]

(*UNDER SECTION 25 OF THE NGT ACT, 2010*)

IN

ORIGINAL APPLICATION NO. 86 OF 2023 [WZ]

(EARLIER NO. O.A. 47 OF 2012 [WZ] [T])

IN THE MATTER OF:

Sandip Ganpat Desai & Anr. …Applicants

Vs

State of Goa and Ors …Respondents

ADVOCATE FOR THE APPLICANTS:

Adv. Om D'costa,
MAH/11676/2021,
G-8, St. Brittos Apartments,
Feira Alta, Mapusa, Goa - 403507,
Email - dcostaom@gmail.com,
Phone - 8007558624 .

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
(WESTERN ZONE BENCH), PUNE

EXECUTION APPLICATION NO. 10 OF 2023 [WZ]

(*UNDER SECTION 25 OF THE NGT ACT, 2010*)

IN **O.A. NO. 86 / 2023 [WZ]**

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Compilation – I

INDEX

Sr. No.	Particulars	Page No.
1.	Synopsis and List of Events	**A - D**
2.	Memo of Application	**1 – 12**
3.	Affidavit	**13 - 14**

PLACE – MAPUSA, GOA

DATE – 16.04.2023 Advocate for the Applicant

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
(WESTERN ZONE BENCH), PUNE

EXECUTION APPLICATION NO. _____ OF 2023 [WZ]

IN **O.A. NO. 86 / 2023 [WZ]**

(EARLIER NO. O.A. 47 OF 2012 [WZ] [T])

IN THE MATTER OF:

Sandip Ganpat Desai & Anr. …Applicants

Vs

State of Goa and Ors …Respondents

SYNOPSIS AND LIST OF DATES AND EVENTS

In OA No. 47/2012(T) filed by the Applicant No. 1 and others, the grievance was with regards to mining activity/mining lease no. T.C. 1/37 proposed in a notified reserve forest in the village of Sancordem, Sanguem Taluka, South Goa. In its judgement dt. 23.11.2012, this Hon'ble Tribunal was pleased to cancel the Environment Clearance, Forest Clearance and Wildlife Clearance granted for the activity, while recording that damage to the forest had resulted from the actions of the then leaseholder. *Inter alia,* this Tribunal directed the State Government to carry out afforestation of the broken forested area. From the date of the judgement dt. 23.11.2012 till 2022, the lease was manned/restricted by security guards, owing to which the status of compliance with the judgement by the Respondents could not be ascertained. However in 2022, certain permissions were granted in

respect of the same site which was directed to be reforested by this Tribunal's judgment dt. 23.11.2012, and mining/screening and other activity commenced at the site which was visible from the road. Development work which had started on site came to be stopped pursuant to complaints duly made to the concerned authorities by the Applicants herein. In order to prevent any such activity recommencing at the subject site, a notified reserved forest, it is necessary that the directions of this Tribunal in its judgement dt 23.11.2012 are complied with, in as far as the afforestation of the subject site is concerned. Hence this EA.

CHRONOLOGY OF DATES AND EVENTS

Sr. No.	Date	Particulars of events or documents if any	Annexure and Page
1.	23.11.2012	Hon'ble NGT cancels the Environment Clearance, Forest Clearance and Wildlife Clearance granted to mining lease with TC No.1/37 located in a notified reserve forest in Sacordem, Sanguem, Goa	**Ann. 1**, at pgs. 15 - 28
2.	29.04.2020	Notification issued by Govt. of Goa regarding use of forest roads outside lease areas.	**Ann. 2**, at pgs. 29 - 32
3.	19.01.2022	In the 27th E-Auction conducted by State of Goa, 45,000 MT of dumped ore lying at the subject property in Sacordem is e-auctioned to the Resp. No. 7	
4.	23.03.2022	The Directorate of Mines & Geology [*Resp. No. 3*] grants NOC to Resp. No. 7 to set up a screening and crushing unit on lease No. 1/37, located on subject property in Sacordem village.	**Ann. 5 Colly**, at pgs. 37- 42
5.	08.04.2022	Forest Department [*Resp. No. 2*] grants permission for transportation of the e-auctioned ore by Resp. No. 7 from subject property	**Ann. 3**, at pgs. 33-34
6.	22.04.2022	Goa State Pollution Control Board grants Consent to Operate to Resp No. 7 for operation of Crushing and Screening Unit at subject property. There is no consent granted to establish the unit.	**Ann. 5 Colly**, at pgs. 39 - 42
7.	29.04.2022	North Goa Division of Forest Department issues formal order permitting Resp. No. 7 to transport 45,000 MT from subject property	**Ann. 4**, at pgs.35-36
8.	24.05.2022	Report of Goa State Pollution Control Board records installation of machinery and other activity at subject property	**Ann. 8**, at pgs.54-59

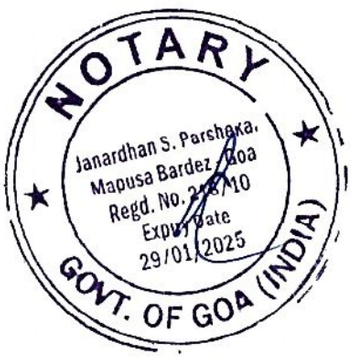
9.	30.06.2022	Applicant No. 2 makes complaint letter to the Forest Department, *inter alia* objecting to screening, transport and other activities at subject property	**Ann. 6 Colly**, at pgs. 43 - 49
10.	03.02.2023	Applicant No. 2 files a complaint letter with the Goa State PCB, objecting to CTO granted by the Board to the Resp. No. 7 for crushing, screening etc. at the subject property	**Ann. 7 Colly**, at pgs. 50 - 51
11.	04.02.2023	Applicant No. 2 makes complaint letter to the North Goa Division of the Forest Department, objecting to grant of transport order/permit to R. 7, in light of NGT judgement dt. 23.11.2012	**Ann. 7 Colly**, at pgs. 52 - 53
12.	08.02.2023	North Goa Division of the Forest Department informs Applicant that action has been taken to stop activities at the site, and that its order dt. 29.04.2022 was withdrawn due to non-compliance with conditions by the R.7	**Ann. 9**, at pgs. 60 - 61
13.	16.04.2023	Present Execution Application is filed	

PLACE: Mapusa, Goa

DATE: 16.04.2023

ADVOCATE FOR THE APPLICANT

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
(WESTERN ZONE BENCH), PUNE



EXECUTION APPLICATION NO. _____ OF 2023 [WZ]

(UNDER SECTION 25 OF THE NGT ACT, 2010)

IN

ORIGINAL APPLICATION NO. 47 OF 2012 (T)

1. **SANDIP GANPAT DESAI,**
age 50 years, Occupation - Agriculture,
resident of H. No. 224, Deualwada,
Sancordem, Goa - 403406,
Contact No. - 9422575195,
Email id: sandipdesai31@rediffmail.com.

[2. ~~**THE GOA FOUNDATION,**~~
through its Secretary, Dr. Claude Alvares,
age 74 years, Having Regd. Office at
Room No 7, Above Mapusa Clinic,
Mapusa, Goa - 403507,
Contact No. – 9674390308,
Email id: goafoundation@gmail.com.]

[Deleted as per order dt. 31.08.2023]

[Adv. for applicants]

...APPLICANTS

AND

1. **THE STATE OF GOA,**
Through its Chief Secretary,
Having office at Secretariat,
Porvorim, Goa - 403521,
Email id: cs-goa@nic.in,
Contact No. - 0832-2419402.

2. **THE ADDITIONAL CHIEF PRINCIPAL CONSERVATOR OF FORESTS. GOVT. OF GOA,**
Forest Department, Government of Goa,
'Van Bhavan', Altinho, Panaji, Goa – 403001,
Email id – dcfhq-forest.goa@nic.in,
Contact no. – 0832 – 2492533.

3. **THE DIRECTORATE OF MINES AND GEOLOGY,** Government of Goa,
Through its Director,
Menezes Braganza Hall Building,
Panaji, Goa – 403001,
Email id – dir-mine.goa@nic.in ,
Contact no. – 0832-2426431.

4. **THE UNION OF INDIA,**
through its Secretary,
The Ministry Of Environment,
Forests & Climate Change,
through its Secretary, Indira Paryavaran Bhavan,
Jor Bagh Rd, New Delhi - 110003,
Email id – mefcc@gov.in,
Contact no. – 011 - 24645586.

5. **THE INDIAN BUREAU OF MINES,**
Regional Office, Goa,
through the Deputy Controller of Mines,
IBM Colony, New National Highway,
Near Arlem Breweries,
P.O. Fatorda, Margao- 403602,
Email id - ro.goa@ibm.gov.in,
Contact No. - 0834-2741758.

6. **M/S. ELRAY MINERALS & CO.,**
Melquiedes Building,
Fr. Joseph Vaz Road,
Vasco-da-Gama, Goa - 403802,
Email id - leslydec525@gmail.com,
Contact No. - 9822383211.

7. **M/S MINRANI EXPORTS & IMPORTS,**
   S-1, 2nd Floor, Indira Apartments,
   Dhavali, Ponda, Goa - 403401,
   Email id - minraniexports@gmail.com.

...RESPONDENTS

[Above are all registered addresses of the parties]

EXECUTION APPLICATION U/s S. 25 OF THE NATIONAL GREEN TRIBUNAL ACT, 2010 FOR EXECUTION OF THE JUDGEMENT DT. 23.11.2012

1. The address of the Applicant's counsel is given below for the service of notices of this Appeal.

2. The addresses of the Respondents are given above for the service of notices of this Appeal.

3. The Applicants are approaching this Hon'ble Tribunal with an Execution Application in respect of execution of the directions issued by this Hon'ble Tribunal vide its judgment dated 23.11.2012 (*Shri Sandeep Desai & v/s State of Goa & ors*). A copy of the judgment is enclosed at **Annexure 1**.

PARTICULARS OF APPLICANTS

4. Applicant No.1 is the petitioner/applicant (with others) in the Original Application filed before this Hon'ble Tribunal which resulted in the said judgement dated 23.11.2012 and directions issued therein. Applicant No. 2 is a well known NGO who is frequently before the High Court, this Hon'ble Tribunal and Supreme Court of India for protection of forests and wildlife, and other environmental issues. It was contacted by the first Applicant in view of non-implementation of directions in respect of forest rehabilitation for assistance for remedial action. Thereafter, Applicant No.2 has also taken steps to bring the non-execution to the notice of the Respondent authorities.

5. **PARTICULARS OF RESPONDENTS**

The Respondent No.1 is the State of Goa. The Respondent No.s 2 and 3 are the Forest Department and Mines Department of the State of Goa respectively. The Respondent No 4 is the Union of India through the Ministry of Environment, Forest and Climate Change, and the Resp. No. 5 is the Regional Office [Goa] of the

Indian Bureau of Mines. The Resp. No. 6 is the private party in whose favour an EC, Forest Clearance and other permissions were issued for mining activity, before these permissions were quashed by the judgment of this Hon'ble Tribunal dt. 23.11.2012. The Resp. No. 7 is the private party which had recently undertaken installation of machinery and other activities at the forested lease site, prior to such activities ceasing after complaints were made by the Applicants to the Respondent State authorities.

FACTS CONSTITUTING THE CAUSE

6. The OA No. 47/2012(T) was filed by the First Applicant and others to challenge mining activity proposed on a lease containing notified reserve forest. Initially, the Applicant No. 1 had approached the Hon'ble High Court of Bombay at Goa with this issue in the form of W.P. 778/2010, but the matter was transferred for adjudication to this Hon'ble Tribunal in view of directions of the Hon'ble Apex Court.

7. After hearing of the Application, this Hon'ble Tribunal was pleased vide a judgement dt. 23.11.2012 [***Ann. 1***] to cancel the Environment Clearance, Forest Clearance and Wildlife Clearance granted for the activity, while recording that no mining activity had commenced, but damage to the forest had resulted from the actions of the then leaseholder.

8. By the said judgement, this Hon'ble Tribunal issued the following directions in Paragraph 13, *inter alia*, which are of principal concern of these Applicants in this Execution Application which is filed in public interest:

> "C. The Respondent No. 6 (project proponent) shall deposit an amount of Rs. 5 lacs or the NPV of the forest area cleared by it (to be ascertained by the MoEF through officers who were not at any stage involved with grant of

any of the approvals related to this project), whichever is more, with the government of Goa. The amount shall be utilized through appropriate agency identified by State Government for afforestation of the broken area.

"D. The MoEF (the competent authority for grant of EC and FC) and the State Government of Goa (in respect of approval by Chief Wildlife Warden) shall initiate departmental proceedings within period of two months against the concerned offices, if any of them is still in service for dereliction in duty and misconduct in granting of the said permission / clearance without following procedure of law and on basis of erroneous statement of facts. If such responsible officers are no more in service, then the estimated loss or an amount of Rs. 5 lacs (for each approval clearance) shall be recovered from such officers who participated in the grant of EC/FC and permission by the Chief Warden of wildlife by taking proper proceedings against them and after hearing them. The amount shall be deposited with Registrar, NGT within 9 (nine) months.

TARY
Janardhan S. Parshekar
Mapusa Bardez - Goa
Regd. No. 218/10
Expiry Date
29/01/2025
GOVT. OF GOA (INDIA)

"E. We further direct that the MoEF shall issue fresh guidelines to the concerned Departments within MoEF for the purpose of avoiding illegality like we have noticed in the context of the three communications referred to above."

"F. The recovery of amounts mentioned in paragraph (C) above to be made within a period of 9 (nine) months hereafter.

"G. The Respondent No. 6 shall pay a cost of Rs. 1 lakhs to the applicants. The other Respondents to bear their own costs."

9. As per the information available to the Applicants, it appears that none of the directions issued by the Hon'ble Tribunal was executed or implemented by the Respondents concerned. The Forest Department and the Department of Mines & Geology, in fact, appear to be completely unaware of the directions issued by this Hon'ble Tribunal.

10. After the judgment was passed by this Hon'ble Tribunal, and all activities relating to the then activity had stopped, the Applicants remained unaware of any actions being taken by the Respondents in respect of the damaged areas. Since the mining lease itself was not cancelled as a result of this Tribunal's judgement, access to the lease area was still obstructed by the security guards of the former lease holder.

11. However, in the year 2022, without any warning, the State of Goa commenced auction of some old minerals illegally dumped in the lease area. This auction and activity related to it took place in full disavowal of the directions issued by this Hon'ble Tribunal in its judgement dated 23.11.2012, and which were also in contravention of law, notably the Forest Conservation Act, 1980.

12. It appears that in the 27th E-Auction dt. 19.01.2022 conducted by the Goa government, 50,000 tons of dumped ore lying at the lease (whose origins are unknown) were e-auctioned to Resp No. 7 (45,000 tons - M/s. Minrani Export and Imports) and one Shirodkar & Company (5,000 tons). The latter company, to the best of the Applicants' knowledge, has not been given any permits nor has undertaken any activity at the site, and is hence not impleaded as a Party Respondent herein.

13. Pursuant to the e-auction, the Resp. No. 7 applied for permits from the Forest department, Department of Mines & Geology and for a consent order from the Pollution Control Board to operate under the Water and the Air Acts.

14. The Forest Department [*Resp. No. 2*], by its order dated 08.04.2022, indicated that necessary permissions for transportation of the e-auctioned ore along the forest road within the lease area may be granted in accordance with the state government notification dated 29.04.2020 for use of forest roads constructed prior to 1980. However, this policy applies only to mineral transportation along forest roads *outside* lease areas. Copy of the said policy dt. 29.04.2020 is at **Annexure 2**, and the Resp. No. 2's letter dt. 08.04.2022 is enclosed at **Annexure 3**.

15. Thereafter, by an order dated 29.04.2022, the Forest Department permitted the mining transportation through the forest *within* the lease area. Thus, the order was issued without any application of mind. Copy of the approval order of the North Goa Division of the Forest Department dated 29.04.2022 is at **Annexure 4**. In any event, the Forest Department appears to have completely overlooked or forgotten or been unaware of the NGT's judgement dated 23.11.2012 cancelling the Forest Clearance granted to the former lease holder.

ARY
Dr. S. Parshekar,
Goa Border, Goa
Regd. No. 218/10
Expiry Date
29/01/2025
T. OF GOA (INDIA)

16. On 23.03.2022, the Respondent No. 7 obtained a no objection from the Department of Mines & Geology to set up a screening and crushing unit on the said lease No. 1/37. By an order dated 22.04.2022, the Pollution Control Board granted Consent to Operate valid till 2027. Copies of the two orders are at **Annexure 5 Colly**. The Resp. No. 7 also installed a plant at the site and commenced development work preliminary to re-start of mining activity on the site which included destruction of the forest. The DMG's order could not have been issued considering the background of this Hon'ble Tribunal's intervention in the matter cancelling the Environment Clearance. The location of the ore processing plant is also, after all, in the forest area.

17. In May 2022, the Applicant No. 1 got in touch with the Applicant No. 2 organisation in view of its expertise in mining matters in the State of Goa and also wrote to some of the authorities.

18. The staff of the Applicant No. 2 i.e., the Goa Foundation, visited the lease area in June 2022 and took photographs. Vide a letter dated 30.06.2022, the Applicant No. 2 wrote to the Forest Department seeking inquiry into the matter and also informed it of the NGT judgement dated 23.11.2012. Copies of this correspondence with photographs are at **Annexure 6 Colly**.

19. On 03.02.2023, the Applicant No.2 wrote to the Pollution Control Board asking it to review its consent order in favour of the Resp. No. 4 considering the facts on record and the judgement of the NGT. It followed up its complaint to the Forest Department by another letter dated 04.02.2023, asking for action in the matter. Copies of both letters are at **Annexure 7 Colly**. The Board did not respond to the said complaint. However, under RTI, it released the report of the Pollution Control Board dated 24.05.2022 filed pursuant to the complaint made by the Applicant No.1, which report is enclosed at **Annexure 8** to this application. It provides proof of installation of machinery.

20. Pursuant to the complaints, however, the private party [*Resp. No. 7*] has speedily dismantled and removed the dry ore processing plant, and the Forest department in its communication to the Applicant No. 2 has indicated that the conditional permission it had granted in 2022 had lapsed within 45 days for non-compliance with conditions stipulated in the said permission. It has also taken action to stop all activities at the screening plant and on verification confirmed that no mining/screening activities were found on T.C. No. 1/37. Copy of the letter of the North Goa Division of the Forest Department dated 08.02.2023 is at **Annexure 9**.

21. The Applicants state that the attempt to ensure that no mining or mining-related activities take place on the former lease in violation of the NGT judgement of 23.11.2012 is, for the moment, successful due to actions taken by the Applicants. However, the present Application is being filed for execution of the directions issued for restoring the broken up area to its forestry nature (*Direction C*) so that this issue does not rise again in future, and if any activity takes places, it will always be as per law. In any event, as the judgement dated 23.11.2012 has been brought to the notice of the concerned authorities, no one can any longer plead ignorance of its directions.

GROUNDS

22. It is under the following circumstances that the Applicants have approached the Hon'ble Tribunal in the instant Application, seeking execution of the judgement dt. 23.11.2012:

A. This Hon'ble Tribunal in OA 47/2012(T) was pleased to cancel the Environment Clearance, Forest Clearance and Wildlife Clearance granted for the mining activity on the said plot. Since the leased area remained restricted/manned by security guards, the Applicants had no knowledge of whether any of the directions had been executed by the Respondents.

B. But in 2022, the State of Goa commenced the auction of old minerals illegally dumped in the lease area. This E-auction and activity related to it took place in violation of the Forest Conservation Act, Environment Protection Act and the directions issued by this Hon'ble Tribunal in the judgement dated 23.11.2012.

C. Pursuant to this E-auction, dump ore at the site was e-auctioned by the Goa government to Resp No. 7 and one Shirodkar and Company. Subsequently, the Resp. No. 7

applied for permits from the Forest department, Department of Mines & Geology and for a consent order from the Pollution Control Board to operate under the Water and the Air Acts.

D. The Forest department, through an order dated 29.04.2022, permitted the mining transportation through the forest on the lease in violation of the NGT's judgement dated 23.11.2012 cancelling the Forest Clearance granted to the former lease holder. It has also violated the notification/Policy of the Forest Department dated 29.04.2020 which only permits mineral transportation through pre-1980 roads *outside* mining lease areas.

E. The NOC granted by the Department of Mines and Geology to Resp. No 7 to set up a screening and crushing unit on the said lease No. 1/37 was granted overlooking the intervention of this Hon'ble Tribunal in the matter cancelling the Environment Clearance.

F. The Resp. No. 7 also installed a plant at the site and commenced development work preliminary to re-start of mining activity on the site, which included destruction of the forest thereon. Considering the judgement of this Hon'ble Tribunal and the fact that the concerned area is forested, the permission should not have been issued by the Department of Mines and Geology.

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No. 218/1
ply Date
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F GOA (INDIA)

LIMITATION

23. There is no limitation period prescribed under the NGT Act for the purpose of seeking Execution under Section 25 of the Act. In any case, there has been no delay in the filing of this Application after knowledge became available to the Applicant No.1. From the date of the judgement dt. 23.11.2012 till 2022, the lease was manned/restricted by security guards, owing to which the status of compliance with the judgement by the Respondents was not

known. In 2022, certain permissions were granted and mining/screening and other activity commenced at the site which was visible, and which came to a halt after complaints were duly made by the Applicants. Apprehending that such a situation may occur again, the Applicants have therefore filed this Application to ensure compliance with the directions passed in the said judgement dt. 23.11.2012.

PRAYERS:

24. The Applicants have therefore approached this Tribunal seeking the following reliefs:

a) For an order directing the Forest Department and other State Authorities to take all necessary measures in a time bound manner to ensure compliance with Direction 13 (c) of the judgement of this Hon'ble Tribunal dt. 23.11.2012 in O.A. 47/2012 (T); and report compliance;

b) For costs;

c) For any other order deemed necessary by this Hon'ble Tribunal;

All for which the Applicants are most grateful.

Mapusa, Goa
05.04.2023

Applicant No. 1

Applicant No. 2

Through,

Adv. Om D'costa,
MAH/11676/2021,
G-8, St. Brittos Apartments,
Feira Alta, Mapusa, Goa - 403507,
Email - dcostaom@gmail.com,
Phone - 8007558624 .

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
(WESTERN ZONE BENCH), PUNE

EXECUTION APPLICATION NO. _____ OF 2023 [WZ]

in **O.A. NO. 47 OF 2012 (T)**

IN THE MATTER OF:

Sandip Ganpat Desai & Anr. ...Applicants

Vs

State of Goa and Ors. ...Respondents

AFFIDAVIT ON BEHALF OF THE APPLICANT

I, Sandip Ganpat Desai, aged 50 years, Indian national, resident of H. No. 224, Deualwada, Sancordem, Goa, the Applicant No.1 herein, do hereby solemnly state and affirm that:

1. I have today filed the instant Execution Application for the reliefs sought therein.

2. I solemnly declare and say that what has been stated in paras 1, 2, 3, 4(p), 5, 6(p), 7(p), 8(p), 9(p), 10(p), 11(p), 12(p), 13, 14(p), 15(p), 16(p), 17, 18, 19(p), 20, 21(p), 22(p), and 23(p) of the accompanying application are in the nature of facts which are true to my own knowledge and official documents/ records, and that the contents of paras 4(p), 6(p), 7(p), 8(p), 9(p), 10(p), 11(p), 12(p), 14(p), 15(p), 16(p), 19(p), 21(p), 22(p), 23(p) and 24 are my submissions, made on legal

advice which I believe to be true and correct. No part of it is false and nothing material has been concealed there from.

3. That the Annexures enclosed are true and correct copies of their respective originals, and have been attested by me as such.

Solemnly affirmed at Mapusa, Goa,
This the 5th day of April, 2023

DEPONENT

Sandip Gaurish Dessai
2503 9540 4320
1419/2023 11/04/2023

JANARDHAN S. PARSHEKAR
NOTARY AT MAPUSA, BARDEZ - GOA
STATE OF GOA INDIA

VERIFICATION

Verified that the contents of paras 1 to 3 of my above affidavit are true to my knowledge and belief, and that no part of it is false and nothing material has been concealed therefrom.

Verified on the 5th Day of April 2023,
at Mapusa, Goa

DEPONENT

NOTARY
Janardhan S. Parshekar
Mapusa Bardez - Goa
Regd. No. 218/10
Expiry Date
29/01/2025
GOVT. OF GOA (INDIA)

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Sandip Gaurish Dessai
2503 9540 4320
1419/2023 11/04/2023

JANARDHAN S. PARSHEKAR
NOTARY AT MAPUSA, BARDEZ - GOA
STATE OF GOA INDIA

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

(WESTERN ZONE BENCH), PUNE

EXECUTION APPLICATION NO. _____ OF 2023 [WZ]

IN **ORIGINAL APPLICATION NO. 47 OF 2012 (T)**

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Sandip Ganpat Desai & Anr. …Applicants

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Compilation – II

INDEX

Sr. No.	Particulars	Page No.
1.	**Annexure 1:** Judgment of this Hon'ble Tribunal in O.A. No. 47/2012 (T), *Sandeep Desai and Ors. Vs State of Goa and* Ors, dt. 23.11.2012	**15 - 28**
2.	**Annexure 2:** Notification issued by the Forest Dept, Govt. of Goa, dt. 29.04.2020	**29 - 32**
3.	**Annexure 3:** Letter from the Forest Dept. (*R. 2*) to the North Goa Division of the Forest Department, dt. 08.04.2022	**33 - 34**
4.	**Annexure 4:** Order issued by the North Goa Division of the Forest Department, dt. 29.04.2022	**35 - 36**
5.	**Annexure 5 Colly:** Letter/NOC by the Directorate of Mines and Geology [*R.3*] to the R. 7, dt. 23.03.2022; and Consent to Operate granted by the Pollution Control Board to the R. 7, dt. 22.04.2022	**37 - 42**

6.	**<u>Annexure 6 Colly</u>**: Letter by the Applicant No. 2 to the Forest Department [*R. 2*], dt. 30.06.2022	**43 - 49**
7.	**<u>Annexure 7 Colly</u>**: Letters by the Applicant No. 2 to the Goa State Pollution Control Board, dt. 03.02.2023; and to the North Goa Division of the Forest Department, dt. 04.02.2023	**50 - 53**
8.	**<u>Annexure 8:</u>** Letter from the Goa State Pollution Control Board dt. 17.10.2022, along with Site Inspection report dt. 24.05.2022	**54 - 59**
9.	**<u>Annexure 9:</u>** Letter by the North Goa Division of the Forest Department to the Applicant No. 2, dt. 08.02.2023	**60 - 62**

Place: Mapusa, Goa

Date: 16.04.2023

Advocate for the Applicant

NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH, NEW DELHI
AT
Court of Board of Revenue, Legislative Council Building, Council Hall, Pune, Maharashtra

Application No. 47 of 2012(T) (Bombay High Court W.P. No. 778/2010)
Friday, the 23rd day of November, 2012

Quorum:

1. **Hon'ble Justice V.R. Kingaonkar (Judicial Member)**

2. **Hon'ble Dr. Devendra Kumar Agrawal (Expert Member)**

B E T W E E N:

1. **Shri Sandeep Desai**
   Son of Ganpat Hari Desai,
   Aged 38 years,
   Occupation Agriculture
   Residing at House No. 282, Sacorda,
   Taluka Sanguem(via Tisk)
   Goa- 403 406

2. **Mr. Uday Hari Desai,**
   Occupation Agriculture,
   Residing at House No. 62
   Panshe, Taluka Sattari, Goa,

3. **Shri Prakash Hari Desai**
   Occupation Agriculture,
   Residing at House No. 62
   Panshe, Taluka Sattari, Goa,

4. **Shri Ulhas Krishna Naik**
   Occupation Agriculture
   Residing at Sacorda,
   Taluka Sanguem, Goa

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5. **Shri Shankar Jog**
   Occupation Agriculture
   Residing at Sacorda,
   Taluka Sanguem, Goa

6. **Shri Sonu Pandhari Kerkar,**
   Occupation Agriculture,
   Residing at Deulwada,
   Sacorda, Goa 403406 **….Applicants**

AND

1. **State of Goa**
   Through its Chief Secretary
   Having his office at
   Secretariat,
   Porvorim, Goa.

2. **The Additional Chief Principal Conservator of Forests**
   Govt. of Goa
   Having his office at
   'Dayanand Smruti Building'
   Panaji, Goa.

3. **The Director of Mines**
   Department of Mines & Geology
   Govt. of Goa,
   Udyog Bhavan, Panaji, Goa.

4. **Union of India**
   Through its Secretary,
   Ministry of Environment and Forests,
   Paryavaran Bhavan,
   CGO Complex, Lodhi Road,
   New Delhi-110003

5. **Controller of Mines,**
   Indian Bureau of Mines,
   Govt. of India,
   Fatorda, Margao, Goa.

6. M/s. Elray Minerals & Co.
Melquiedes Building
Fr. Joseph Vaz Road,
Vasco-da-Gama, Goa 403 802 …..Respondents

(Advocates appeared: M/s SashiKant N. Joshi along with Mr. B.P.Natekar For Appellant, Mr Mahesh Amonkar for Respondent No. 4 and 5, Mr. Arvind Gupta along with Anand P. Akut for Respondent No.6)

Oral Judgement

1. This application filed u/Sec. 18(1) r/w Sec. 14,15,16 and 17 of the National Green Tribunal Act, 2010 is registered with the National Green Tribunal after transfer of W.P. No. 778 of 2010 originally filed by the applicants in the High Court of Bombay at Goa. The applicants challenge legality and validity of Environmental Clearance granted by MoEF dated 17.05.2007, Forest Clearance granted by MoEF (F.C. Division) dated 13th/15th May, 2008 and permission granted by the Chief Wildlife Warden, Goa dated 08.02.2010 (Annexure – P1 to P3). The applicants seek quashing of the above 3 Orders referred in the application, on the ground that they have been issued illegally without following the regular norms and procedure.

2. The Writ Petition No. 778 of 2010 from Bombay High Court at Goa was transferred to the National Green Tribunal in view of the observations of the Supreme Court of India in Bopal Gas Peedith Mahila

Udyog Sangathan & Ors. V/s. Union of India & Ors. [2012 STPL(web) 424 SC].

3. It is not necessary to elaborate all the facts in detail as narrated by the applicants. Suffice it to say that the chronological events stated in the application have not been disputed by the Respondents, particularly, the Respondent no. 6, who is the project proponent. The Respondent No. 6 did not file any reply to the Writ Petition before the Bombay High Court at Goa as well as to the present application before us and raised no contentious issue in regard to the factual and legal submissions of the applicants.

4. Briefly stated, case of the applicants is that by virtue of Notifications dated 23rd August 1979, 15th October1981, 23rd July1984, parts of forests at village Sacorda were declared as reserved forest. The area of the reserved forest, considered comprehensively is 1573.65 Hectares. The reserved forest area connects Madei Wildlife Sanctuary, Bhagwan Mahaveer Wildlife Sanctuary and the Mollem National Park. The Wildlife Sanctuaries and National Park are rich in bio-diversity. So also, reserved forest area is hardly at a distance of about 2 km. from Bhagwan Mahaveer Wildlife Sanctuary. It is also within radius of 10 km. of all the above two Wildlife Sanctuaries and the National Park. This information regarding the distance from the Wildlife Sanctuaries / National Park is as per the Environmental Clearance order, however the applicants dispute the same. They allege that the distance between the Wildlife Sanctuaries/National Park and the project of Iron/Manganese Ore Mining, as proposed by the Respondent no. 6, is quite less (but of

course less then 10 km) and therefore, the mining activity could not be permitted under the law. The applicants have come out with a case that without any proper public hearing, the Ministry of Environment & Forests (MoEF) granted the Environmental Clearance. The applicants further allege that the mining activity is likely to cause serious damage to the biodiversity, and will destroy rare species of animals like Barking Deer, Leopard etc. The applicants also raised the issues pertaining to air/noise pollution, source of irrigation from underground water, absence of proper baseline data in EIA report; and ground water table depth with regard to the mining activity, etc. The applicants further say that the Respondent no. 6 started commencement of the mining activity without prior permission/consent of the competent authority and therefore a complaint was made. The activity was later on stopped by the Respondent no. 6. The Respondent no. 6 illegally felled a considerable number of trees and had broken forest area of about 1 square km. in order to commence the mining activity. However, after filing of the complaint and Writ Petition in the Bombay High Court at Goa, that activity was stopped.

5. We have heard Learned Counsel for the parties. Though, Ld. Counsel Mr. Anand Akut appearing for the Respondent No. 6 submitted adjournment application and sought time to file Vakalatnama yet, his request is rejected in as much as already there is Vakalatnama of another lawyer and moreover by order dated 5th November, 2012, the parties were given clear understanding that the matter would be heard at Pune Circuit Bench on the scheduled date i.e. today. Apart from this, it is worthwhile to note that the Respondent no. 6, i.e. the project proponent, did not file any Reply Affidavit in the proceedings before the High

Court of Bombay at Goa in the context of W.P. no. 778 of 2010. It is manifestly clear that the Respondent no. 6 did not actively participate in the proceedings of the Writ Petition and also failed to point out that any valid permission was obtained from National Board for Wildlife (N.B.W.L.) before commencement of the project work. It is also amply clear that the Respondent no. 6 stopped the mining activity soon after filing of the Writ Petition and whatever activity was carried out by him was between the period of January to May 2010, only to the extent of felling of trees and clearing a part of the forest. There is no iota of evidence to indicate that actually ore was mined by the Respondent no. 6 and its quantification thereof, if any.

6. The material questions involved in the present application are :-

1. Whether any proper and valid public hearing was conducted before grant of the Environmental Clearance (EC) by the MOEF?
2. Whether the MOEF considered all the relevant aspects and norms prior to grant of E.C. in question?
3. Whether the Forest Clearance for renewal of Mining Lease was granted in accordance with the legal norms?
4. Whether the approval accorded by the Chief Wildlife warden, Goa is legal and proper?

For reasons stated herein below we record 'negative' findings on above questions.

7. From the documents placed on the record and particularly the Affidavits of the authorities of Ministry of Environment and Forest (MoEF) and Indian Bureau of Mines (IBM), it is explicit that the project

proponent was required to obtain all the mandatory clearances as applicable to the project. It is also manifestly clear that the approval granted by Chief Wildlife Warden is not at all in keeping with the directions of the Apex Court in W.P. no. 460 of 2004. By Order dated 4th December, 2006, the Apex Court directed that projects located within 10 kms. from the boundary of any National Park or Wildlife Sanctuary are required to obtain prior approval from the Standing Committee of N.B.W.L. Admittedly, no approval from N.B.W.L. was obtained by the Respondent no. 6 for the proposed mining project. There is absolutely no iota of evidence to show that the Respondent no. 6 even applied for such kind of prior approval from the Standing Committee of N.B.W.L.

8. Perusal of the Inspection Report based on joint inspection carried out by Mr. Shivkumar C.M., Dy. Conservator of Forests(C)and Scientist E, Dr. C. Kaliyaperumal; shows that the proposed project is at a distance of about 2 kms. from Bhagwan Mahaveer Wildlife Sanctuary and at a distance of about 7 kms. from Bondla Wildlife Sanctuary and Mollem National Park. It is further clear from the said Report that the project proponent had broken 4.8642 ha area of the forest cover.

9. It is pertinent to note that as no Lease Deed is available on record to show that the project proponent was granted any land on lease for the mining purpose. The record/affidavit of the Director of Mines, Department of Mines & Geology , Govt. of Goa (Respondent No. 3) also do not show that any Lease Deed was executed in favour of the Respondent no. 6 i.e. project proponent. What appears from the record/Affidavits filed by the MoEF (Respondent No. 4) and Director of Mines, Goa (Respondent No. 3) and Dy. Conservator of Forests, Forest Dept. Goa, Govt. of Goa (Respondent No. 2) is that no permission was issued by Director of Mines & Geology for operation of the iron ore mine

to the Respondent No. 6. It is further amply clear that no Mining Lease was executed in favour of the Respondent no. 6. On careful perusal of the Affidavit of Forest Department, Goa it is amply clear that inspection was carried out on 02.01.2010 and that the proposed Mining area is about 2.2 kms. away from boundary of Bhagwan Mahaveer Wildlife Sanctuary. Considered together, the documents would make it crystal clear that the statement with regards to distance from wildlife Sanctuary/National Park as mentioned in the Communication dated 17th May, 2007 by the MoEF, while granting EC are not in keeping with the fact situation. The EC Order reads vide paragraph 4 thereof as under :-

"Based on the information submitted by you, the Ministry of Environment & Forests accords EC for the above project as per Notification dated 14th September, 2006 Subject to Following conditions / ….."

10. Thus, the information submitted by the project proponent was accepted as a gospel truth by the MoEF. The MoEF on its part did not verify the correctness of the information given by the Respondent no. 6. So far as the public hearing is concerned, it is worthy to be noted that the same was conducted at a distance of about 27 kms. from the place of project in question. It is clear that very few public members were present at the said public hearing . There is no record to show that notice of the public hearing was duly published. Nay, it was not even pasted outside the Office of the Village Panchayat of Sacroda. Thus, the only deducible conclusion will be that the EC was granted without following the due procedure as shown in the Notification dated 14th September, 2006. The E.I.A. Report also was not duly obtained and authenticated. The MoEF was required to verify the information

regarding source of irrigation, the proximity agricultural lands, presence of corridor through the reserved forest for wildlife, between the 2 Wildlife Sanctuaries and the National Park etc. The data regarding available flora and fauna, ground water depth in the context of mining depth, etc. were also not examined. So also, the Forest Clearance is based on incorrect information about the distance between the Wildlife Sanctuaries/National Park and the mining project in question. It also does not correctly indicate the forest density. The Forest Clearance is based on observation that the canopy is of 0.4 whereas Dy. Conservator of Forest, Goa in his report suggested that it is 0.5 whereas Inspection Report shows it to be between 0.5 to 0.7. Needless to say, everything appears to be fishy, based on untrue facts and inaccuracies.

11. In case of **"Anand Arya Vs. Union of India 2012(2) (FLT) 163 (SC)** it is held that where a project is by the side of Bird Sanctuary, it would be potential danger to ecology. The Supreme Court referred to order dated December 12 1996 in **"Godavarman Thirmulkpad Vs. Union of India & Ors. (1997) 2 SCC 267**. In that case, it has been observed as under:

> "3. *It has emerged at the hearing, that there is misconception in certain quarters about the true scope of the Forest (Conservation) Act, 1980 (for short the 'Act') and the meaning of the word "forest" used therein. There is also a resulting misconception about the need of prior approval of the Central Government, as required by Section 2 of the Act, in respect of certain activities in the forest area which are more often of a commercial nature. It is necessary to clarify that position.*

"4. The Forest(Conservation) Act, 1980 was enacted with a view to check further deforestation which ultimately results in ecological imbalance; and therefore, the provisions made therein for the conservation of forests and for matters connected therewith, must apply to all forests irrespective of the nature of the ownership or classification thereof. The word "forest: must be understood according to its dictionary meaning. This description covers all statutorily recognized forests, whether designated as reserved, protected or otherwise for the purpose of section 2(i) of the Forest (Conservation) Act. The term " forest land", occurring in section 2, will not only include "forest"as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership . This is how it has to be understood for the purpose of section 2 of the Act. The provisions enacted in the Forest (Conservation) Act, 1980 for the conservation of forests and the matters connected therewith must apply clearly to all forests so understood irrespective of the ownership or classification thereof. This aspect has been made abundantly clear in the decisions of this Court in Ambica Quarry Works v. State of Gujarat, Rural Litigation and Entitilement Kendra v. State of U.P. and recently in the order dated 29.11.1996(Supreme Court Monitoring Committee v. Mussorie Dehradun Development Authority). The earlier decision of this Court in State of Bihar v. Banshi Ram Modi has, therefore, to be understood to reiterate this settled position emerging from the decisions of this Court to dispel the doubt, if any, in the perception of any state Government or authority. This has become necessary also because of the stand taken on behalf of the State of Rajasthan even at this late stage,

relating to permissions granted for mining in such area which is clearly contrary to the decisions of this Court. It is reasonable to assume that any state Government which has failed to appreciate the correct position in law so far, will forthwith correct its stance and take the necessary remedial measures without any further delay."

12. **In State of Bihar v. Bansi Ram Modi** **(1985) 3 SCC 643**, the Supreme Court Observed:

".....Reading them together, these two parts of the section mean that after the commencement of the Act no fresh breaking up of the forest land or no fresh clearing of the forest on any such land can be permitted by any State Government or any authority without the prior approval of the Central Government. But if such permission has been accorded before the coming into force of the Act and the Forest land is broken up or cleared then obviously the section cannot apply…"

In the present case, the Respondent No. 6 commenced breaking of the Forest land and actually cleared a part of the forest though with the approval from the Central Government, yet the renewal of lease itself was illegal because there was no lease deed executed between him and the competent authority. Hence he had no legal right to cause breaking of the forest land.

13. Considering the deficiencies mentioned above and the fact that the averments in the application are not controverted by the project proponent, all the three (3) impugned orders of EC, FC and Chief Warden of Wild life are invalid, illegal and improper. All the 3 communications

will have to be therefore, quashed as prayed by the applicants. We are further of the opinion that MoEF and the other authorities casually granted the clearances /approvals without verification of the necessary facts and without following the due procedure. This resulted into undertaking of the mining activity by the Respondent no. 6 though temporarily. The Respondent no. 6 appears to have removed earth for breaking the forest areas and also fell certain trees therefrom. Under these circumstances, we deem it proper to allow the application with the following reliefs :-

A. The application is allowed.

B. The EC, FC and the permission granted by the Chief Wildlife Warden (Exhibit – P-1 to P-3) are quashed and set aside.

C. The Respondent no. 6 (project proponent) shall deposit an amount of Rs.5 Lacs or the NPV of the forest area cleared by(it to be ascertained by the MoEF through officers who were not at any stage involved with grant of any of the approvals related to this project), whichever is more, with the Govt. of Goa. The amount shall be utilized through appropriate agency identified by State Government for afforestation of the broken area.

D. The MoEF (the competent authority for grant of EC and FC) and the State Government of Goa (in respect of approval by Chief Wildlife Warden) shall initiate departmental proceedings within period of two months against the concerned officers, if any of them is still in service for dereliction in duty and misconduct in granting of the said permission/clearance without following procedure of law and on basis of erroneous statement of facts. If such responsible officers are no more in service, then the estimated loss or an amount of Rs. 5 Lacs (for each approval/clearance) shall be recovered from such officers who participated in the grant of EC/FC and permission by the Chief Warden of wild life by

taking proper proceedings against them and after hearing them. The amount shall be deposited with Registrar, NGT within 9 (nine) months.

E. We further direct that the MoEF shall issue fresh guidelines to the concerned Departments within MoEF for the purpose of avoiding illegality like we have noticed in the context of the three communications referred to above.

F. The recovery of amounts mentioned in paragraph (c) above to be made within a period of 9 (nine) months hereafter.

G. The Respondent no. 6 shall pay a cost of Rs. 1 Lac to the applicants. The other Respondents to bear their own costs.

(Dr. D.K. Agrawal)
Expert Member

(Justice V.R. Kingaonkar)
Judicial Member

NATIONAL GREEN TRIBUNAL
NEW DELHI
राष्ट्रीय हरित अधिकरण
नई दिल्ली

Government of Goa.
Forest Department
Secretariat, Porvorim – 403 521
Tel Nos: (0832) 2419443/2419792/2419697 e-mail: usforest-sect.goa@nic.in

No.2-1-2011/FOR/105. Dated: 29/04/2020

Read: Notification No.2-1-2011-FOR/198 dated 10/06/2013.

NOTIFICATION

As per the guidelines issued by the Central Government under Forest (Conservation) Act, 1980 at, Annexure IX, existing forest road outside lease areas can be permitted by the State Government to be used on the terms and conditions to be decided by the State Government.

2. The Government of Goa, taking into consideration the above guidelines and in supersession of the Notification read above, is pleased to decide and declare the revised terms and conditions and the rates for use of old forest roads existing prior to 1980, as and when permitted by the State Government.

A. **Rate for use of roads by different agencies are as under;**

1. Rs. 100/- per return trip for public purpose.

2. Rs.25/- per return trip for Canacona and Valpoi Municipal Council for waste Disposal as these projects are in public interest; and

3. (a) Rs. 200/- per return trip for vehicle up to 10.5 tonnes goods loaded in it for distance of less than 1 km for the agencies using the road for commercial purpose like mining etc.

(b) Rs. 300/- per return trip for a distance of more than 1 km but less than 2 km for the agencies using the road for commercial purpose like mining etc.

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(c) Rs. 350/- per return trip for a distance of more than 2 km for the agencies using the road for commercial purpose like mining etc.

Note: For vehicle loaded beyond 10.5 tonnes goods, the rates charged will be two times the rate given as above.

(d) The payment of usage by the user agencies at the above rate shall be made advance (for the proposed transportation). Calculated/estimated based on usage for a period of one-month duration (so that the amount deposited is always on positive side) and weekly reports should be filed by the user agency in details in details including transportation details in the office of the Dy. Conservator of Forests as well as Range Forest office concerned.

B. **Terms and conditions for use of roads: -**

1. No transport shall be allowed after 5.00 pm and before 8.00 am

2. No. development/extension of the road shall be carried out by the agencies. The repair of the road shall be carried out by the Forest Department or any such agencies/ Department to be appointed by the Department.

3. Usage of the road is allowed for a definite period(specific dates may be mentioned in the permission being granted).

4. Any damage to the adjacent forest in any way shall result into revocation of permission without any notice from Forest Department.

5. The user agency will not have any right over the and the Department is free to withdraw the permission at any time, without any notice.

6. The user agency shall be allowed only innocent passage and if any of the trucks/vehicles of the user agency or the user agency are found involved or including in forest/wildlife crimes, they shall be liable for action as per law and permission of the user agency shall be revoked if the forest/wildlife crime is repeated by any of its components/agents on the road permitted, on second subsequent occasion during the calendar year.

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7. The user agency shall submit the details of trucks/vehicles that need to be permitted to ply on the roads and any additions/deletions to the list of vehicles shall be intimated to the Range Forest Officer and office of the Dy. Conservator of Forests concerned, immediately. The vehicles listed should be approved by the Directorate of Mines & Geology, for the purpose of transportation of ore on that particular sector, as and when, Directorate of Mines & Geology make it mandatory.

8. New conditions, if required will be imposed, at any time.

3. The issues with the concurrence of the Finance Department (Exp). Vide their U.O. No.1400051657 Dated 23/04/2020.

This Notification shall come into force with immediate effect.

By order and in the name of
the Governor of Goa.

(Shaila G. Bhosle)
Under Secretary (Forest)

To,

The Director, Printing and Stationery, Government Printing Press, Panaji – Goa for publication in the Official Gazette and supply 2 copies of the same to this office for record.

Copy for information to:

1) Principal Chief Conservator of Forests, Forest Department, Panaji, Goa.
2) The Director of Mines & Geology Department , Panaji, Goa.
3) The Director of Accounts, Panaji, Goa.
4) The Sr. Accountant General (Audit), Porvorim Goa.
5) Guard File.
6) O/C.

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PONDA GOA

140/C

GOVERNMENT OF GOA
Office of the Principal Chief Conservator of Forests
"Goa Van Bhawan" Forest Department,
Altinho, Panaji, Goa
Email: dcfme-forest.goa@nic.in

No. 6-13-(244)-2022-23-FD/ 86 Dated: 08/04/2022.

Chaitra 18, Saka 1944.

To,
The Dy. Conservator of Forests,
North Goa Division,
Ponda-Goa.

Sub: - Permission for Transportation-reg.

Ref: Minrani Export Letter No. NIL dated 04.04.2022.

Sir,

With reference to the above mentioned subject please find enclose herewith the copy of letter dated 04.04.2022 received from Mr. Anand Minrani in the above mentioned subject for information.

In this regard, it is requested to ascertain whether the forest road that will be used for E-auctioned ore transportation was opertable since or before 1980 and also, the distance of forest road to be used for ore transportation up to main road. The necessary permission may be granted in accordance with the State Government Notification dated 29.04.2020 for use of forest road. (copy enclosed).

Yours faithfully,

(Anand S. Jadhav)
Dy. Conservator of Forest
Monitoring & Evaluation.

Encl: As above
Copy to Shri. Anand Minrani, S-1, " Indirs" Apts. Dhavali, Ponda-Goa for information.

"Swachh Bharat, Swachh Goa"
"Clean India,Clean Goa"

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11/4/2023

GOVERNMENT OF GOA
Office of the Deputy Conservator of Forests,
North Goa Division,
Ponda – Goa, 403 401
Ph No: 0832-2312856 Fax No: 2312095 email:- dcfnorth-forest.goa@nic.in
No.5/FCA- 81 /PON/DCFN/TECH/22-23/ 36 Dated:- 29/04/2022

Sub:- Permission to use forest road -reg.

Ref. No.:-6-13-(244)-2022-23-FD/87 dated 08/04/2022.

ORDER

With reference to your application dated 06/04/2022, regarding the above subject, the Dy. Conservator of Forests Monitoring and Evaluation, Altinho Panaji vide letter No. 6-13-(244)-2022-23-FD/87 dated 08/04/2022 has conveyed that state Government has issued revised rates for use of old forest roads existing prior to 1980.

As this road to an extent 4.7 km in length with width recorded between 6 to 8 mtrs. passes through Sy. No. 7,8, 31, 10, 11, 30, 38 and 40 of Sacorda village of Dharbandora taluka and part of Sy. No. 13/0 of Sangod village of Dharbandora Taluka touching to the said access is an old existing teak plantation. Approximately 60 mts length of the said road passes through said plantation area. I view of above, the User Agency, M/s Minrani represented by Shri. Anand Minrani, S-1 Indian Apts, Dhavali, Ponda is permitted to transport the E-auctioned Ore of 45,000 Mt from Mine Elray Minerals and Co. TC No. 1/37 of Sacorda in Dharbandora Taluka to NH4A Durgini Road (Forest Road) with following terms & conditions prescribed in Government of Goa's Notification No. 2-1-3011/FOR/105 dated 29/04/2020.

1. No transportation shall be allowed after 5.00 pm and before 8.00 am.
2. No development/extension of the road shall be carried out by the agencies. The repair of the road shall be carried out by the Forest Department or any such agencies/ department to be appointed by the Department.
3. Usage of the road is allowed for a period of 45 days.
4. Any damage to the adjacent forest in any way shall result into revocation of permission without any notice from Forest department.
5. The user agency will not have any right over the road and the department is free to withdraw the permission at any time without any notice.

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29/04/2022

6. The user agency shall allow only innocent passage and if any of the truck / vehicle of the user agency to the user agency are found involved or including in forest Wildlife crime. They shall be liable for action as per law and permission of the user agency shall be revoked if the forest/wildlife crime is repealed by any of the component/ agent on the road permitted, on second subsequent occasion during the calendar year.
7. The user agency shall submit the details of trucks/vehicles that need to be permitted to ply on the roads and any addition /deletion in the list of vehicles shall be intimated to the Range Forest Officer, and the O/O of the Dy. Conservator of the Forests Concerned, immediately. The vehicle listed should be approved by the Directorate of Mines and Geology for the purpose of transportation of the ores on that particular sector as and when directorate of Mines and Geology make it mandatory.
8. The User Agency shall pay the Rates prescribed by Government of Goa vide Notification dated 29/04/2020 (Copy enclosed), for use of roads in advance to the O/o Deputy Conservator of Forests, North Goa Division- Ponda. Monthly estimates & Weekly reports shall be submitted by User Agency to forest department without fail.
9. New conditions, if required will be imposed, at any time, if found necessary.

29/04/22.

(Jiss K Varkey, IFS)
Dy. Conservator of Forest
North Goa Division
Ponda- Goa.

Encl. As above.

To
M/s M. S. Minrani
Road No. 4, Madhura Nagar,
Neradmet, Secundrabad

Copy submitted to:- The Dy Conservator of Forests, Monitoring and Evolution, Altinho, Panaji.
w. r. to. above referred letter under reference for information.

Copy to:- 1) Conservator of Forest (Conservation) for kind information.
2) The Sub Divisional Forests Officer, Ponda for necessary action.
2) The Range Forest Officer, Collem for information and necessary action and he is directed to ensure that there is no violation of any court order/ Forest act or guidelines issued by the Government under the Preservation of the Trees Act, 1984, the Indian Forest Act, 1927 the Forest conservation act, 1980 and Wildlife (Protection) Act 1972 etc,

O/C
Rec'd on
29/04/22

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PONDA GOA

Government of Goa
Directorate of Mines Geology
Institute Menezes Braganza, Gr. Floor, Panaji-Goa
Website: dmggoa.goa.gov.in e-mail: dir-mine.goa@nic.in
Ph: (0832) 2426431 Fax: (0832) 2425291

No. 03/27/2022/Major/Mines/ 3142 Date: 23/03/2022

To,
M/s. Minrani Exports and Imports
S-1, "Indirs" Apts.
Dhavali, Ponda-Goa.
e-mail:- minraniexports@gmail.com

Sub: Screening & crushing of ROM ore stack SD-ROM-1-1/37, Sacorda Mines, Sancordem, Goa.

Ref: Your letter dated 11/03/2022.

Sir,

With reference to your application dated 11/03/2022 on the above mentioned subject, I am directed to convey the 'No Objection' of this Department to crush and screen the e-auctioned iron ore of below tabled Lots bid by you in the 27th E-auction:

SN	TC No.	Stack No.	Location	Taluka	Type of Ore	Sold Qty. (MT)
1	1/37	SD-ROM-1-1/37	Sacorda Mines	Dharbandora	ROM	45,000

The above 'No Objection' conveyed for screening and crushing the e-auctioned ore lots located at the location as mentioned above is subject to obtaining all other required NOCs/permissions from the concerned Government Authorities by you.

Further, after screening and crushing the material, you are directed to submit to this Office the quantities screened, type of ore and the grade of ore for this Office records.

Yours faithfully,

(Manuel Barreto)
Dy. Director-I of Mines & Geology

UNDER RTI ACT 2005
RIGHT TO INFORMATION

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GOA STATE POLLUTION CONTROL BOARD
गोंय राज्य प्रदूषण नियंत्रण मंडळ

(An ISO 9001-2015, ISO 14001:2015, ISO 45001:2018 Certified Board)

Phone Nos : 0832- 2407700,
2407701, 2407702
Tel/Fax No: 0832- 2407700

Email Ids:
Chairman, GSPCB, chairman-gspcb.goa@nic.in
Member Secretary, GSPCB, ms-gspcb.goa@nic.in
Office, mail.gspcb@gov.in

No. 12/2022-PCB/1237996/R0009559 Date:22/04/2022

Consent to Operate under Section 25/26 of the Water (Prevention & Control of Pollution) Act, 1974 & under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981

[To be referred as Water Act and Air Act respectively]

CONSENT TO OPERATE UNDER WATER AND AIR
is hereby granted to:

M/s. MINRANI EXPORTS AND IMPORTS
(Represented By: Shri. Vikas Shivaji Singh)
(Small Scale Enterprise)
(Red Category)

T/C No: 1/37, Sacorda Mines, Sacordem, Dharbandora, Goa

Located in the area declared under the provisions of the Water Act & Air Act, subject to the provisions of the Act and Orders that may be made further and subject to the following terms and conditions:

1. This Consent to Operate is **valid up to 23/03/2027**

2. This Consent to Operate is valid for the activity of:

Sr. No	Description	Capacity
1.	Screening and Crushing for the E-Auctioned Iron Ore	45,000 MT

3. **CONDITIONS REQUIRED TO BE COMPLIED UNDER THE WATER ACT:**

(i) The rain accumulated / surface runoff shall be treated in a settling pond and the discharge shall conform to the following standards:

pH	Between	5.5 & 9.0
Suspended Solids (non-rainy day)	Not to exceed	50 mg/l
Suspended Solids (rainy day)	Not to exceed	100 mg/l
Iron	Not to exceed	3 mg / l
Manganese	Not to exceed	2 mg / l
Oil & Grease	Not to exceed	10 mg/l

(ii) The unit shall at his own cost get the samples of water discharged from the stacking plot /working area collected and analyse, every month the parameters indicated above from a laboratory recognized by

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11/4/2023

Ministry of Environment and Forest under the Environment Protection Act, 1986 and rules there under and results shall be uploaded in the ocmms portal regularly by the 15th of the succeeding month.

4. CONDITIONS REQUIRED TO BE COMPLIED UNDER THE AIR ACT

(i) The applicant shall provide wind breaking walls/barriers.

(ii) The applicant shall provide dust containment cum suppression system.

(iii) The approach roads to the premise shall be metalled.

(iv) The applicant shall carry out regular cleaning and wetting of ground within the plot to suppress dust pollution.

(v) The applicant shall construct garland drains along the periphery of the unit to avoid siltation of dust into seasonal streams/ agricultural land, etc.

(vi) The applicant shall plant fast growing trees along the periphery/ compound wall of the plot to arrest dust pollution.

(vii) The unit shall carry out Ambient Air Quality Monitoring at one station in core zone and two stations in buffer zone out of which one station should be at the nearest residence for monitoring $PM_{2.5}$, PM_{10},. Location of the ambient air quality stations should be decided based on meteorological data, topographical features and environmentally and ecologically sensitive targets and the frequency of monitoring should be twice a week for the core zone and the buffer zone from a laboratory recognized by Ministry of Environment and Forest under the Environment Protection Act, 1986 and results shall be submitted regularly to this Board by the 15th of every succeeding month.

Applicant shall achieve following Ambient Air Quality standards:

PM_{10}	Not to Exceed (Annual Average)	60 µg/ m^3
	Not to Exceed (24 hours)	100 µg/ m^3
$PM_{2.5}$	Not to Exceed (Annual Average)	40 µg/ m^3
	Not to Exceed (24 hours)	60 µg/ m^3

(viii) The applicant shall observe the following standards within the working zone:

Sr. No	Parameters	Standard
1	Fugitive Emission Standards	
	Particulate matter	1200 µg/m^3
	Fugitive emission shall be monitored in the predominant downwird direction at a distance 25.0±2.0 meters from the source of fugitive emission as per following:	
	Area	Monitoring location
	Mine face/ benches	Drilling, excavation and loading applicable for operating benches above water table
	Haul roads/ service roads	Haul roads to ore processing plant, waste dumps and loading areas and service road
	Crushing plant	Run-off mine unloading at hopper, crushing areas, screens and transfer points
	Screening plant	Screens, conveying and transportation of ore discharge points
	Ore storage & loading	Intermediate stock bin/ pile areas, ore stock bin/ pile areas, wagon/ truck loading areas
	Waste dump	Active waste/ reject dumps

The unit shall take adequate measures for control of noise levels from its own sources within the premises in respect of noise. The limits are as follows

Category of Area/ Zone	Limits in dB (A) Leq	
	Day time	Night time
Industrial Area	75	70
Commercial Area	65	55
Residential Area	55	45
Silence Zone	50	40

Day time is reckoned between 6 a.m. to 10 p.m. and night time is reckoned between 10 p.m. to 6 a.m.

5 **GENERAL CONDITIONS:**

(i) The unit shall not change or alter the quantity, quality of discharge, temperature or the mode of the effluent/ emission or hazardous wastes or control equipments provided for without previous permission of the Board.

(ii) The unit shall provide facility for collection of samples of effluent, air emissions and hazardous wastes to the Board staff.

(iii) An application in prescribed form along with the prescribed fees for renewal of Consent shall be submitted at least 60 days before the expiry of validity of this Consent. An application for renewal of Consent submitted after expiry of the validity shall accompany with penalty of 50% of the Consent fees in addition to the prescribed consent fees.

(iv) The Board shall be forthwith informed of any accident or unforeseen event involving discharge of any poisonous, noxious or polluting matter into a stream or well or on land or into the atmosphere, as result of such discharge water/ air is being polluted.

(v) This Consent to operate is granted without any prejudice to any of the permission(s) required under any law, by laws and regulations in force and this Consent to Operate is confined to matters arising out of the Air Act and Water Act only.

(vi) The Board reserves the right to amend or add any conditions in this consent and the same shall be binding on the applicant.

(vii) The unit shall submit to this office, the Environmental Statement Report in Form V for the Financial Year ending April to March by 30th September of the succeeding year as per the provisions of the rule 14 of the Environment (Protection) (Second Amendment) Rules, 1992.

(viii) Reliable flow meter shall be installed to maintain record of water consumption / waste water generation per day. The records so maintained shall be made available to the Board officials whenever required.

(ix) The industry shall bear the cost of analysis / monitoring in case of complaints received by the Board/ reinspections due to non compliances observed by the Board & monitoring carried by the Board.

(x) The unit shall submit the details of the Public Liability Insurance Policy under the PLI Act 1991, to the Board office as applicable.

(xi) The unit shall submit returns for disposal of batteries under the Batteries (Management & Handling) Rules 2001, if applicable.

The unit shall submit returns for disposal of e - waste under the E- Waste (Management) Rules 2016 as amended thereafter, if applicable.

(xiii) The unit shall submit returns for disposal of plastic waste under the Plastic Waste (Management) Rules 2016 as amended thereafter, if applicable.

(xiv) The unit shall comply to the Guidelines and dust mitigation measures in handling Construction material and Demolition waste, **as applicable**, issued by Central Pollution Control Board (CPCB) and are placed on Board website – www.goaspcb.gov.in

To,
M/s. MINRANI EXPORTS AND IMPORTS
S-1, Indira Apartments,
Dhavali, Ponda, Goa

Copy to:- 1 Accounts Section
2 Concerned File
3 Guard File

Received Consent fee of: **The Capital Investment of the unit is Rs.81,00,000/-**

Receipt no.	Amount	Date
Online Payment	Rs.94,700/- (Consent to Operate fees)	29/03/2022

DR SHAMILA MONTEIRO
Digitally signed by DR SHAMILA MONTEIRO
Date: 2022.04.22 15:17:59 +05'30'

(Dr. Shamila Monteiro)
Member Secretary
For Goa State Pollution Control Board

GOA FOUNDATION

G-8, St Britto's Apartments, Feira Alta, Mapusa 403507 Goa, INDIA
Telephone: +91-9067176274
E-mail: goafoundation@gmail.com *Website:* www.goafoundation.org

30.6.2022

The Principal Chief Conservator of Forests,
Goa Van Bhavan
Forest Department
Altinho, Panaji, Goa.

Subj: Illegal mining/transport activity in Sacordem reserve forest by M/s Mirani Exports & Imports

Dear Sir,

During the course of a visit to Mollem on 28 May 2022, I had occasion to visit the site of mining activity and associated transport taking place on ML No.1/37. A dry screening plant had been imported to the former leased area. The lease encompasses Sy.Nos.7 and 11 of Sacordem village which are reserve forest.

It appears that the Mines Department has conducted an e-auction of minerals stocked on these survey numbers, upto an extent of 50,000 tonnes. The e-auction was successfully bid by M/s Mirani Exports and Imports, Dhavali, Ponda. He was granted the authority to remove the mineral. Pollution Control Board has granted the private party a consent order to install a dry screening plant with a validity period extending upto the year 2027.

If one examines the matter from your own records, it will probably be established that some mining waste or sub-grade mineral may have been dumped on the lease in 1977 or 1978 without any authority, prior to the notification of FCA, 1980.

The lease (originally owned by El-Ray Minerals) came up for scrutiny before the Hon'ble Green Tribunal in the year 2012. The final order of the NGT confirms that the lease was never operated from its inception. No production has ever been declared from the lease, since there is no mining pit even today in evidence on the lease. The NGT set aside the forest clearance issued dated 13/15 May 2008. By then, the lease holder had already felled a considerable number of trees and also broken up forest area. The NGT directed the lease holder to deposit Rs.5 lakh with the Goa govt for afforestation of the broken area (copy of NGT order is annexed).

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It appears that none of these directions has been followed by the Forest Department. The broken up area and mud roads are still intact. Additional vegetation has been destroyed to expand the mud road. On the contrary, in 2022, the DCF (M&E) has issued a letter to the DCF (North) in which he has stated that "necessary permission may be granted in accordance with the State Government notification dated 29.4.2020 for use of forest road."

I was not able to ascertain whether indeed any such permission has been granted by the DCF (North) as a result. However, during the visit I have taken pictures of the various destructive activities conducted by the said Mirani Exports & Imports. These include location of a dry screening plant in the forest area, clearing out vegetation for the road, filling up of nullah/water course with rubble using JCB, excavation of dump.

Excavation of dump material is expressly disallowed for the moment by the order and judgment of the Apex Court dated 21.4.2014. Excavation of dump material in forest area is therefore even more unusual. If there are no permissions granted by the DCF (North), then we are in a serious situation of violation of the orders of the NGT, Forest Conservation Act, Supreme Court order dated 21.4.2014, in addition to transgressions of other environmental norms.

The e-auction conducted for this plot should not have been carried out without prior consent and approval of the Forest Department.

Please therefore consider ordering a detailed investigation into this complaint. Your forest officials may have been misled into issuing the order dated 8.4.2022, or perhaps, were unaware of the NGT's order dated 23.11.2012.

In the meanwhile, please ensure that necessary orders are issued to suspend all work of mining transport and mineral processing at the site.

Yours faithfully,

(Dr Claude Alvares)
Director

Encl:

a) NGT order dated 23.11.2012
b) Letter of Forest Dept dated 8.4.2022
c) Select photos of mining activity on ML 1/37

Photos of mining activity on ML No.1/37, Sacordem village. Party has extended the road further into forest area

Vegetation cleared and buried for road transportation/extraction work

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JCB for earth excavation work on the mining dump and for expanding road

Road through forest area, which was to be closed and rehabilitated. Instead, party has put the road back to use.

Dry screening plant for processing 45,000 tonnes of dumped ore

Ore excavated from dump and brought to screening plant for processing

Water course/nallah filled with rubble for passage of road to dump

Another road through forest area.

Forest road widened and sides excavated

Active excavation work in forest area

GOA FOUNDATION

G-8, St Britto's Apartments, Feira Alta, Mapusa 403507 Goa, INDIA
Telephone: +91-9067176274
E-mail: goafoundation@gmail.com *Website:* www.goafoundation.org

3 February 2023

To:
The Member Secretary,
Goa Pollution Control Board,
Nr. Pilerne Industrial Estate,
Opp. Saligao Seminary, Saligao,
Goa 403511

Sub: Consent to operate dated 22.4.2022 granted to M/s Mirani Exports and Imports. Consent order Ref No: 12/2022-PCB/1237996/R0009559 dated 22/04/2022

Dear Sir/Madam,

Our attention has been drawn to the CTO issued by you dated 22.04.2022 to Minrani Exports and Imports on mining lease area TC No. 1/37, Sacorda Mines, Sacordem, Dharbandora, Goa. The consent is valid till 31st March 2027 and is issued for screening and crushing of e-auctioned iron ore to the extent of 45,000 mt on the said mining lease. (The lease in fact no longer exists.)

The mining activity on lease no. 1/37 is covered by judgment and order of the Hon'ble NGT dated 23.11.2012. By the said order, all clearances granted to commence mining activities on the said lease under Forest Conservation Act, Environment Protection Act and Wildlife Act were cancelled by the Hon'ble NGT. The NGT order records that no mining has ever taken place on the said lease. A copy of the order is annexed.

The said lease covers Sy. No. 7 & 11 which are declared as reserve forest under the Indian Forests Act, 1927 and therefore also protected by the FCA, 1980.

All consent orders of the board invariably carry the Sy. No. on which the activity is proposed to be located. This information has been withheld from the said CTO.

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The CTO also does not mention any order issued by the board with reference to the consent to establish issued to the said party, especially when the said lease ceased to exist several years ago.

In view of the above, you are requested to review the CTO for a screening and crushing plant on forest land, as the matter is beyond your jurisdiction and contrary to the provisions of the FCA, 1980. It has obviously been granted without application of mind.

The consent order may accordingly be withdrawn failing which the undersigned organization would have no option but to approach the Hon'ble High Court/NGT for cancellation of the CTO.

Yours sincerely,

Dr. Claude Alvares
Director

Encl: NGT order dated 23.11.2012.

GOA FOUNDATION

G-8, St Britto's Apartments, Feira Alta, Mapusa 403507 Goa, INDIA
Telephone: +91-9067176274
E-mail: goafoundation@gmail.com *Website:* www.goafoundation.org

4.2.2023

To:
The DCF,
Office of the Dy. Conservator of Forests
North Goa Division, Ponda
Goa 403 401

Sub: Permission issued by your office dated 29.4.2022 with
Ref. No: 5/FCA-81/PON/DCFN/TECH/22-23/36 dated 29.4.2022

Dear Sir,

Your office had issued a transport permit to M/s. Minrani Exports and Imports for removal of 45,000 mt of ore through forest road of Sacordem village.

This permission has been granted without reference to the order of Hon'ble NGT dated 23.11.2012 which cancelled all permissions granted for mining operations on lease with TC No. 1/37 of Sacordem.

After obtaining the order of transport from your department, Minrani Exports and Imports has set up a screening and crushing plant in the forest area for the e-auctioned ore purchased by it based on an illegal consent order issued by the Pollution Control Board.

The Goa Foundation had already addressed a detailed letter to you in this matter dated 30.6.2022 for which there is no response.

You are therefore required to examine how a screening and crushing unit could be set up in the forest area by Minrani Exports and Imports and on a lease which was not only operated but where fines were levied by the NGT for restoration of the forest area which had been cleared prior to mining.

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Further, the said lease with TC No.1/37 has long since ceased to even exist in view of orders and judgments passed by the High Court and Supreme Court of India in the Goa mining case.

We hope that you will examine this matter carefully and take appropriate action. We do look forward to a response.

Yours sincerely,

Dr. Claude Alvares
Director

GOA@60

GOA STATE POLLUTION CONTROL BOARD
गोंय राज्य प्रदूषण नियंत्रण मंडळ

(An ISO 9001-2015, ISO 14001:2015, ISO 45001:2018 Certified Board)

Phone Nos. : 0832-2407700
2407701, 2407702
2407703

Tel/Fax No. : 0832-2407700

Email Ids:
Chairman, GSPCB: chairman-gspcb.goa@nic.in
Member Secretary GSPCB: ms-gspcb.goa@nic.in
Office: mail.gspcb@gov.in

Received on 17/10/22

No. 1/20/2592/2022-PCB/Tech/12821 Date : 17/10/2022

To,
Adv. S. N. Joshi & Associates,
Office: T-14/T-13, 3rd floor,
Jairam Complex, Neugi Nagar,
Rua de Ourem, Panaji Goa 403 001

Sub: Complaint regarding illegal mining activities and transportation in reserved forest.
Ref: Your complaint dated May 17, 2022.

Sir,

With reference to the subject cited above in your complaint dated 17/05/2022, this is to inform you that Board officials conducted inspection at the site on 24/05/2022 and the said inspection report is forwarded to you for your information.

Yours Faithfully,

(Dr. Shamila Monteiro)
(Member Secretary)
Goa State Pollution Control Board

Encl: As above

Copy to,
1. The Director, Directorate of Mines and Geology, Ground Floor of Institute Menezes Braganza, Panaji, Goa 403001.....***for information and further needful.***
2. Office file.
3. Guard file.

True Copy
11/4/2023

Goa State Pollution Control Board
Panaji-Goa

Inspection Report

Sub: Complaint regarding illegal mining activities and transportation in reserved forest.

Ref: (1) Complaint with above subject received on May 17 , 2022 from Adv S.N. Joshi & Associates, Office: T-14/T-13, 3rd floor, Jairam complex, Nevgi Nagar, Rua de Ourem, Panaji Goa 403 001
(2) Inspection Order No.10/1/2022/PCB/Vol.XXII/Tech/3038.

As directed the undersigned, Mr. Rajat Sawant (JRF) along with Mr. Ashley Pereira (EA) and Mr. Saby Fernandes (FA) conducted site inspection on 24/05/2022 with respect to the order dated above. Unit representative Shri. Narayan Balve (site supervisor) was present at the time of inspection.

The complaint is regarding illegal mining activities and transportation in reserved forest by Elray Minerals and Co. /Minrani Exports and Imports in mining lease T.C. No. 1/37, Sacorda, Taluka Dharbandora.

Observations:

- The unit has permission for Screening and crushing of 45000 MT in the 27th E-auction issued by Department of Mines and Geology.
- The unit M/s Minrani Exports and Imports located at T/C No: 1/37, Sacorda Mines, Sacordem, Dharbandora, Goa deals in screening and crushing of the E-Auctioned Iron ore.
- The unit has obtained consent to operate under Air act and Water act for screening and crushing of the E-Auctioned Iron ore- quantity 45000 MT and is valid up to 23/03/2027.
- The unit was not in operation during inspection, no mining activities were observed during inspection.
- The unit has setup a mobile screening cum crushing plant in the mining lease area, adjacent to the public road. Approx. 2500MT of ore was seen stacked at mobile screening cum crushing plant for processing.
- As per the submission made by the unit representative, no iron ore is processed/ transported till date.
- Below photographs shows the status of the mining site as on date of the inspection.

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11/4/2023

Conclusions and Reccommendations:

- The unit has obtained consent to operate under Air act and Water act for screening and crushing of the E-Auctioned Iron ore- quantity 45000 and is valid up to 23/03/2027.
- We may direct the Directorate of Mines and Geology to monitor the operations of the unit to ascertain whether the unit is carrying out illegal mining activities.

Name of the inspecting officials:

Ashley Pereira(EA)

Rajat Sawant(JRF)

GOVERNMENT OF GOA
Office of the Deputy Conservator of Forests,
North Goa Division,
Ponda – Goa, 403 401

Ph No. 0832-2312095/2312856, Fax No. 2312095, email id:dcfnorth-forest.goa@ nic.in

No. 6/DCFN/CONF/2022-23/ 83/2307 Date: 08/02/2023

To,
Shri Claude Alvares,
Goa Foundation
G-8, St Britto's Apartments,
Feira Alta
Mapusa – Goa 403507

Sub: Complaint from Goa Foundation.
Ref No: Your letter dt. 04.02.2023

Sir,

With reference to the subject cited above, it is to inform that: -

1. This office had issued only a conditional permission dated 29.04.2022 to M/s Minrani exports & imports for usage of Forest road. Since the User Agency has not complied with the conditions stipulated in said permission, it is not effected and got lapsed in 45 days.
2. When it is noticed that the User Agency attempted for testing of ore grade in old rejected dumps using a screening plant, immediately action was taken by this office to stop such activities and directed the User Agency to obtain necessary clearances.
3. As verified by this office, no any mining / screening activities are found at TC No. 1/37 and strict vigil is being ensure by this office to avoid any violation of Hon'be Court's orders.

This is for favour of information please.

Yours faithfully

Jiss K. Varkey, IFS
Dy. Conservator of Forests
North Goa Division
Ponda- Goa

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11/4/2023

61